

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL McCALLION,

Plaintiff

9:22-CV-253
GLS/CFH

-against-

C.O. MATTHEW MARRA, SGT. JOSEPH COFFEY,
C.O. MARCUS HART, C.O. SHAWN BARBARITO,
C.O. GORDON GRIFFITH, C.O. WEIDNER, and
C.O. KREG JACKSON,

Defendants

NOTICE OF MOTION

PLEASE TAKE NOTICE, that based upon the accompanying Memorandum of Law of Nicholas W. Dorando, Assistant Attorney General, and accompanying Declarations and Exhibits; the Rule 56.1(a) Statement; and upon all the pleadings and proceedings herein, Defendants MATTHEW MARRA, SGT. JOSEPH COFFEY, C.O. MARCUS HART, C.O. SHAWN BARBARITO, C.O. GORDON GRIFFITH, C.O. WEIDNER, and C.O. KREG JACKSON, will move the United States District Court for the Northern District of New York, Albany, New York, on a date and time of the Court's choosing, or as soon thereafter as counsel can be heard, pursuant to Rule 56 of the Federal Rules of Civil Procedure for an order granting partial summary judgment and dismissing those portions of Plaintiff's Amended Complaint insofar as asserted against them, together with such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 7.1 (a) (1) of the Local Rules of Practice of the United States District Court for the Northern District of New York, any papers in opposition to the within motion must be filed with the Clerk for the Northern District of

New York and served upon defendants' counsel no later than Twenty One (21) days prior to the return date of the motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to Federal Rule of Civil Procedure Rule 56(e), when a motion for summary judgment is made and properly supported, you may not simply rely upon your pleadings to oppose said motion, but you must respond by affidavits or as otherwise provided in that rule, setting forth specific facts showing that there is a genuine issue of material fact for trial. Any factual assertions in Defendants' Declarations will be accepted by the Judge as being true unless you submit affidavits or other documentary evidence contradicting our assertions. If you do not so respond, summary judgment, if appropriate, may be entered against you. If summary judgment is granted against you, those portions of your case will be dismissed and there will be no trial on those causes of action.

Dated: Albany, New York
February 5, 2024

LETITIA JAMES
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